

ADOPTIONS SECTION

HEALTH

PUBLIC HEALTH SERVICES BRANCH

DIVISION OF HIV, STD, AND TB SERVICES

Notice of Readoption

Attendance and Participation at School by Persons with HIV Infection; Aids Drug Distribution Program; HIV/AIDS Counseling and Testing of Pregnant Women for HIV; and Disclosure of Children's HIV/AIDS Status

Readoption with Technical Changes: N.J.A.C. 8:61

Authority: N.J.S.A. 26:5C-1 et seq., particularly 26:5C-6, 8, and 20; and 26:2-111.2.

Authorized By: Cathleen D. Bennett, Commissioner, Department of Health.

Effective Date: July 17, 2017, Readoption;

August 21, 2017, Technical Changes.

New Expiration Date: July 17, 2024.

Take notice that, pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, the Commissioner of the Department of Health (Department) hereby readopts N.J.A.C. 8:61, which was to expire on August 18, 2017.

N.J.A.C. 8:61 establishes at Subchapter 1, definitions of terms the chapter uses; at Subchapter 2, standards for attendance and participation at school by persons with HIV infection; at Subchapter 3, standards for the AIDS drug distribution program; at Subchapter 4, standards for HIV/AIDS counseling and testing of pregnant women for HIV; and at Subchapter 5, standards for disclosure of children's HIV/AIDS status.

The Department is developing rulemaking that would revise and update N.J.A.C. 8:61. However, the rulemaking in development will not be implemented in time to prevent the expiration of existing N.J.A.C. 8:61. The Commissioner has reviewed N.J.A.C. 8:61 and determined that, subject to the technical changes on readoption described below, the existing chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which the Department originally promulgated it, as amended over time, and should be readopted. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 8:61 is readopted, with the technical changes described below, and continues in effect for seven years.

The Department is making several technical changes upon readoption.

The Department is correcting references throughout the chapter to the Department to reflect the change in the Department's name pursuant to N.J.S.A. 26:1A-2.1.

The Department is correcting references throughout the chapter to the Division of Youth and Family Services to reflect the establishment of the Department of Children and Families (DCF) pursuant to the DCF Act, N.J.S.A. 9:3A-1, and the transfer of the former Division of Youth and Family Services of the Department of Human Services to the DCF as the Division of Child Protection and Permanency pursuant to P.L. 2012, c. 16 (approved June 29, 2012).

The Department is correcting typographical errors at N.J.A.C. 8:61-4.3 and 4.7.

Full text of the technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. HIV SERVICES – DEFINITIONS

8:61-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

“Department” means the New Jersey Department of Health [and Senior Services].

...

SUBCHAPTER 4. TESTING OF PREGNANT WOMEN AND NEWBORNS FOR HIV OR HUMAN IMMUNODEFICIENCY VIRUS

8:61-4.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

“Birthing facility” means a hospital or ambulatory care facility birth center licensed by the Department [of Health and Senior Services] that provides birthing and newborn care services.

...

8:61-4.7 HIV test results, confidentiality, and reporting

(a) (No change.)

(b) A clinical practitioner or [birth] birthing facility shall maintain the confidentiality of HIV information and test results in accordance with the requirements of N.J.S.A. 26:5C-5 through 14 and N.J.A.C. 8:57-1.14, but shall release information and results as follows:

1. – 4. (No change.)

(c) (No change.)

SUBCHAPTER 5. DISCLOSURE OF INFORMATION TO FULL-TIME CAREGIVERS

8:61-5.1 Disclosure of information to full-time caregivers

The contents of a child's HIV/AIDS records may be disclosed by health care providers to the Division of [Youth and Family Services] **Child Protection and Permanency (DCF)**.

The [Division of Youth and Family Services] **DCF** may disclose such information on a need-to-know basis to private adoption agencies certified by the [Division of Youth and Family Services] **DCF** and to foster care agencies with which the [Division of Youth and Family Services] **DCF** contracts. The [Division of Youth and Family Services] **DCF**, private adoption agencies certified by the [Division of Youth and Family Services] **DCF**, and foster care agencies with which the [Division of Youth and Family Services] **DCF** contracts may disclose the contents of a child's HIV/AIDS record on a need-to-know basis for the care and treatment of the child to any full-time caregiver. Individuals receiving such information shall keep the information confidential, pursuant to N.J.S.A. 26:5C-10.